



**Date:** April 8, 2014

**To:** Thomas J. Bonfield, City Manager  
**Through:** Keith Chadwell, Deputy City Manager  
**From:** Reginald J. Johnson, Director  
Department of Community Development  
**Subject:** Public Hearing on and Approval of Proposed Amendments to the  
FY 2011-2012, 2012-2013 and 2013-2014 Annual Action Plans

### **Executive Summary**

The Citizen Participation Plan contained in the adopted 2010-2015 Consolidated Plan requires that a public hearing be conducted for all formal amendments that add, delete or substantially change the Consolidated Plan or Annual Action Plan according to regulations found in 24 Code of Federal Regulations (CFR) 91.105, as amended. The purpose of the proposed amendments is to reallocate funding to ensure the timely expenditure of Community Development Block Grant (CDBG) and Home Investment Partnership Program (HOME) funds. Specifically, as it relates to HOME funds, the proposed amendments are necessary to meet a statutory commitment deadline before July 31, 2014.

### **Recommendation**

The Department of Community Development recommends that the City Council hold a public hearing on May 5, 2014 to receive citizen comments on the Proposed Amendments to the FY 2011-2012, 2012-2013, and 2013-2014 Annual Action Plans as it relates to CDBG, HOME and ESG funds and approve the amendments for submission to the U.S. Department of Housing and Urban Development Attachment (A), and authorize the City Manager to execute all administrative requirements and contractual documents for the implementation of the amended Annual Action Plans.

### **Background**

As a participating jurisdiction, each year the City of Durham submits a detailed Annual Action Plan to HUD which describes how the City intends to invest its CDBG, HOME and ESG funds for the upcoming program year. Once HUD approves the Annual Action Plan, the participating jurisdiction is then held responsible for carrying out the activities in the Plan in a timely manner. In order to make substantial changes, the participating jurisdiction must amend its Consolidated/Annual Action Plan according to its adopted Citizen Participation Plan.

## **Issues and Analysis**

When City Council approved moving forward with the Southside Revitalization project in the spring of 2012, the Department of Community Development put forth a multi-year funding plan associated with the rental and homeownership development. One aspect of that multi-year plan was the budgeting of HOME funds to provide homeownership assistance to low-to moderate homebuyers. Through the current fiscal year, a total of \$1,381,670.00 in HOME funds was budgeted for that purpose. Because homeownership construction has begun only in the past few months, none of those funds have been expended. HOME funds to provide a portion of the construction/permanent financing for two phases of mixed-income rental development by McCormack Baron Salazar (MBS) were also included in that multi-year plan.

Under the HOME program, grantees must “commit” HOME funds within two years of the executed grant agreement/funding approval and must expend those funds within five years. “Commitment” is defined as an executed contract or loan or a CHDO Reservation for a specific project. With the rules that were in effect at the time that the multi-year funding plan was initially prepared, the City would have been able to enter into an agreement with MBS to loan HOME funds available in the current or any previous fiscal year for the development of the second phase of rental development. Expressed differently, because homeownership development is only now getting underway, the City would have been able to “commit” the older HOME funds budgeted for homeownership assistance to MBS in order to meet the two year commitment requirement.

In 2013, HUD made numerous and extensive revisions to the HOME regulations. For Durham, the most significant of those revisions, which became effective August 23, 2013, is that grantees may no longer commit HOME funds to a project until all other sources of funding or financing are in place. This revision has the effect of preventing the City of Durham from committing HOME funds to MBS for a second phase of rental development until tax credits have actually been awarded and first mortgage financing have been secured.

The deadline for committing “older” HOME funding is July 31, 2014 and the current “shortfall” in HOME funding which must be committed is \$1,447,300. To meet the HOME commitment deadline, two actions are proposed. First, through the FY 14-15 application process for CDBG, HOME and Dedicated Housing Funds, CASA was recommended for \$1,163,477.00 in Dedicated Housing Funds for the development of Denson Apartments Phase II which consists of 12 units of permanent housing targeting homeless Veterans. The substantial amendment instead allows for Denson II to be funded in an equal amount using the older HOME funds. In the City’s internal accounting system, the Dedicated Housing Funds that would have been used for Denson II will instead be used for Southside homeownership assistance.

The second action necessary to meet the commitment deadline is the approval of an additional \$500,000.00 to the MBS HOME loan for the first rental development

phase. This amount represents the City's agreed-upon participation in project acceleration costs primarily associated with environmental issues on the site and associated delays in building pad turnover to the general contractor. The source of the additional funding is \$432,085 in HOME funds in the current fiscal year originally budgeted for MBS's second rental phase and a \$67,915.00 reduction in the current fiscal year in the amount of HOME funds budgeted for Southside homebuyer loans or incentives. A separate agenda item requesting Council approval of the MBS loan amendment increasing the total loan amount provides additional background information and justification for the increased loan amount.

With regard to CDBG funds, the Substantial Amendment involves deleting a subrecipient award to Durham County Department of Social Services (DSS) for homelessness prevention and case management. Previously, this award was a part of a cost sharing arrangement with the County for Opening Doors, Durham's homeless prevention effort. Under this arrangement, the City provided funding to the County out of CDBG funds to support case management within DSS and the County in turn provided the City with an equal amount of funding to support Continuum of Care (CoC) staffing within the Department. With the suspension of that arrangement, a portion of CoC staffing costs will be paid from Dedicated Housing Funds. Dedicated Housing Funds used for Urgent Repairs will be reduced by an equal amount (\$74,000.00) and Urgent Repair will be added as a CDBG-funded activity in the amount of \$74,000.00. With regard to ESG funds, the award of \$11,082 to Durham Housing Authority for Rapid Re-Housing will not move forward and will be reallocated via a competitive process.

The adopted Citizen Participation Plan requires that at least a 10-day notice be given to the public prior to date of the hearing and a 30-day comment period to receive citizen comments on the proposed amendments prior to implementation. In order to inform citizens of the upcoming public hearing, notices were published in the *Herald-Sun* and the *Carolina Times* on April 4 and 5, respectively.

### **Alternatives**

Failure to submit the proposed amendments to the subject Plans will cause a delay in the timely expenditure and flexibility of HOME and CDBG funds. Further, failure to hold the public hearing and to subsequently approve the Substantial Amendment could result in HUD issuing a finding of non-compliance and the de-obligation of funds.

### **Financial Impact**

The amended activities and projects will be funded with the reallocation of 1,663,477.00 in HOME funds and \$74,000.00 in CDBG funds.

### **SDBE Summary**

Not applicable to this item.

Attachment